

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

GARY WUNSCH

v.

AMERICAN REALTY CAPITAL
PROPERTIES, ET AL.

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Civil No. – JFM-14-4007

MEMORANDUM

I agree with the decision in *Knox v. Agria Corp.*, 613 F. Supp. 2d 419 (S.D.N.Y. 2009) rather than the opinion of my friend and colleague Judge Goodwin in *Niitsoo v. Alpha Natural Res., Inc.*, 902 F. Supp. 2d 797 (S.D.W.Va. 2012). I do not believe that the Supreme Court’s opinion in *Kircher v. Putnam Funds Trust*, 547 U.S. 633 (2006) is material because this case involves a class action based upon federal law. Thus, it is a “covered class action” under 15 U.S.C. §77p(b). Section 77p(c) is not relevant here because the asserted claims do not arise under state law.

For these reasons an order is being entered herewith denying plaintiff’s motion to remand and transferring this action to the Southern District of New York, where it can be consolidated with the seven suits that are presently pending there.

Date: April 14, 2015

/s/
J. Frederick Motz
United States District Judge